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TO: Docket Control
Arizona Corporation Commission

ARIZONA CORPORATION COMMISSION
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Arizona Corporation Commission

FROM: Ernest C. Johnson
Director
Utilities Division

DOCKETED

MAY 18 2009

Date: May 18, 2009

DOCKETED BY

RE: STAFF'S REQUEST TO AMEND DECISION NO. 70139 RATE CASE OF
HAROLD BULLARD DBA VERDE WEST IRRIGATION DOCKET NO.
I-02274A-07-0357

On January 23, 2008, Decision No. 70139 granted Harold Bullard d/b/a Verde West Irrigation ("Verde West", or "the Company") a rate increase. The Decision included a condition that the new rates not go into effect until Verde West's then pending application to transfer its assets was found sufficient by Staff. The Company has been charging the new rates even though the transfer application was never found sufficient. Staff recommends that the sufficiency requirement be deleted from the Decision and the new rates be allowed to go into effect.

Background

Verde West is an irrigation company serving approximately 183 customers in an area located approximately five miles west of the town of Camp Verde. It is owned and operated by Mrs. Peggy Larson, Mr. Bullard's ex-wife. Verde West pumps non-potable water from the Verde River (under grandfathered water rights) to storage ponds where it is released through gates and fed through a series of ditches and pipes to be used to irrigate the property of the customers. Many customers own several acres of land with large gardens and trees and rely on Verde West for their irrigation water.

In 2006, Mrs. Larson filed an application to transfer the assets of Verde West to a homeowners association which was just forming (Docket No. I-02274A-06-0327). Mrs. Larson wanted to transfer the assets because she no longer could afford to subsidize the irrigation company with her own funds and needed to hire additional assistance with the physical labor involved in operating the company. Ultimately, the homeowners association did not purchase the Company.

On June 7, 2007, Mrs. Larson filed a rate case. The rate case decision, Decision No. 70139 issued January 23, 2008, approved new rates but ordered that the new rates not go into

effect until the transfer application was found sufficient. However, Mrs. Larson immediately began charging the new rates which enabled her to perform maintenance and make needed repairs. On June 23, 2008, Mrs. Larson filed to have the transfer docket closed. On September 24, 2008, the transfer docket was closed by a Procedural Order.

Compliance

On April 17, 2009, Consumer Services Staff received a complaint from a Verde West customer who expressed concerns about the higher rates. Consumer Services Staff reviewed the rate case Decision and determined that Verde West was out of compliance with the order because the new rates were being charged before the transfer application had been deemed sufficient by Staff. The transfer application cannot be deemed sufficient because it has been administratively closed. Staff contacted Mrs. Larson who indicated a refund of the rate increase would not be possible and if ordered to refund those amounts, she would be unable to continue to operate the company.

Staff believes that under these circumstances, the Commission should remove the language from the rate case order which required sufficiency in the transfer case before the new rates could go into effect. Staff believes it is in the public interest to do so because the Company provides surface water for irrigation purposes which otherwise would be provided by groundwater if the Company does not operate. The Company has complied with the other requirements of the Decision and has represented that it will continue to do so.

Recommendation

Staff recommends that Decision No. 70139 be amended by deleting the following language which appears on page 4, line 16, 17 and 17 ½; "...that the rates authorized herein shall not become effective until the first day of the month following the Company's application for the transfer of its assets in Docket No. I-02274A-06-0327 is found sufficient by Staff;" there are no conforming changes needed.

EGJ:LAJ:kdh

Originator: Linda A. Jaress

Attachment: Original and 13 Copies

Service List for: Harold Bullard d/b/a Verde West Irrigation
Docket No. I-02274A-07-0357

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